



Reprinted  
February 27, 2008

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## ENGROSSED SENATE BILL No. 227

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DIGEST OF SB 227 (Updated February 26, 2008 7:08 pm - DI 75)

**Citations Affected:** IC 4-23; IC 4-33; IC 4-35; IC 5-2; IC 33-37; IC 35-33; IC 35-37; IC 35-38; IC 35-46; noncode.

**Synopsis:** Domestic violence issues and invasion of privacy. Renames the "sexual assault victim standards and certification board" as the "sexual assault victim advocate standards and certification board", and moves control of the board to the criminal justice institute from the department of workforce development. Moves the sexual assault victims assistance account and all balances and encumbrances to the criminal justice institute from the department of workforce  
(Continued next page)

**Effective:** Upon passage; July 1, 2008.

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**Becker, Delph, Charbonneau, Wyss,  
Sipes**

(HOUSE SPONSORS — LAWSON L, VANDENBURGH, CROUCH,  
DUNCAN)

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January 8, 2008, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

January 17, 2008, reported favorably — Do Pass.

January 22, 2008, read second time, ordered engrossed.

January 23, 2008, engrossed.

January 29, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Judiciary.

February 21, 2008, amended, reported — Do Pass.

February 26, 2008, read second time, amended, ordered engrossed.

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ES 227—LS 6658/DI 14+



development. Removes the executive director of the commission for women from membership on the commission, and adds representatives of the office of family and social services and state department of health as members. Makes conforming changes. Repeals the sexual assault victim standards law. Provides that victim advocates and victim services providers may not give testimony, produce records, or disclose certain confidential communications and confidential information without the victim's consent. Provides that a victim may not be forced to consent to the disclosure of confidential information in order to receive counseling or advocacy services. Requires a victim to be notified if confidential information is disclosed. Makes certain information obtained as part of an application for certain gaming licenses, confidential. Allows a court to prohibit a defendant from contacting an individual if the defendant has not been released from lawful detention. Permits a court to require that as a part of a person's executed sentence, the person shall refrain from contact with an individual. Makes it a Class A misdemeanor if a person violates an order to refrain from contacting an individual if the person has not been released from lawful detention or as a condition of an executed sentence.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~. Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution. Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 227

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A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-23-25-9, AS AMENDED BY P.L.126-2006,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 9. The department of workforce development  
4 established by IC 22-4.1-2 shall provide staff and administrative  
5 support to  
6 (1) the commission. ~~and~~  
7 (2) ~~the sexual assault standards and certification board~~.  
8 SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006,  
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 UPON PASSAGE]: Sec. 1.5. (a) The following information submitted,  
11 collected, or gathered as part of an application to the commission for  
12 a license is confidential for purposes of IC 5-14-3-4:  
13 (1) Any information concerning a minor child of an applicant.  
14 (2) The Social Security number of an applicant or the spouse of  
15 an applicant.  
16 (3) The home telephone number of an applicant or the spouse of  
17 an applicant.

ES 227—LS 6658/DI 14+



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- (4) An applicant's birth certificate.
- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.
- (8) The place of birth of the spouse of an applicant.
- (9) The personal financial records of an applicant or the spouse or minor child of an applicant.
- (10) Any information concerning a victim of domestic violence or sexual assault.**

**(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:**

- (1) is confidential for purposes of IC 5-14-3; and**
- (2) may be released by the commission only for law enforcement purposes or to a state or local public agency.**

**(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:**

- (1) The individual's name.**
- (2) The individual's place of employment.**
- (3) The individual's job title.**
- (4) The individual's gaming experience.**
- (5) The reason for denial or revocation of a license or for disciplinary action against the individual.**
- (6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.**

**(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).**

**SECTION 3. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:**

- (1) Any information concerning a minor child of an applicant.**
- (2) The Social Security number of an applicant or the spouse of an applicant.**
- (3) The home telephone number of an applicant or the spouse of an applicant.**
- (4) An applicant's birth certificate.**

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- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.
- (8) The place of birth of the spouse of an applicant.
- (9) The personal financial records of an applicant or the spouse or minor child of an applicant.
- (10) Any information concerning a victim of domestic violence or sexual assault.

(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

- (1) is confidential for purposes of IC 5-14-3; and
- (2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

- (1) The individual's name.
- (2) The individual's place of employment.
- (3) The individual's job title.
- (4) The individual's gaming experience.
- (5) The reason for denial or revocation of a license or for disciplinary action against the individual.
- (6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 4. IC 5-2-6-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection (c).

(b) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

(c) The sexual assault victim advocate standards and certification board is established. The board consists of the

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following twelve (12) members appointed by the governor:

(1) A member recommended by the prosecuting attorneys council of Indiana.

(2) A member from law enforcement.

(3) A member representing a rape crisis center.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A member representing mental health professionals.

(6) A member representing hospital administration.

(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection recommended by the Indiana chapter of the International Association of Forensic Nurses.

(8) A member who is an employee of the Indiana criminal justice institute.

(9) A member who is a survivor of sexual violence.

(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.

(11) A member who is an employee of the office of family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(d) Members of the board serve a four (4) year term. Not more than seven (7) members appointed under this subsection may be of the same political party.

(e) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(f) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section;

(4) administer the sexual assault victims assistance account established by subsection (h); and

(5) certify sexual assault victim advocates to provide advocacy services.

(g) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the

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board is paid at the discretion of the director of the office of management and budget.

(h) The sexual assault victims assistance account is established within the state general fund. The board shall administer the account to provide financial assistance to rape crisis centers. Money in the account must be distributed to a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. The account consists of:

- (1) amounts transferred to the account from sexual assault victims assistance fees collected under IC 33-37-5-23;
- (2) appropriations to the account from other sources;
- (3) fees collected for certification by the board;
- (4) grants, gifts, and donations intended for deposit in the account; and
- (5) interest accruing from the money in the account.

(i) The expenses of administering the account shall be paid from money in the account. The board shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration. The board may not use more than ten percent (10%) of the money collected from certification fees to administer the certification program.

(j) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(k) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(l) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.174-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).



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(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established

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under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by ~~IC 4-23-25-11(i)~~ **IC 5-2-6-23(h)** one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

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(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 6. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the

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defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual, **including if the defendant has not been released from lawful detention.**

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

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(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection

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(a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 7. IC 35-37-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) As used in this chapter, "confidential communication" means any information:

- (1) exchanged between a victim and a victim ~~counselor~~ **advocate** in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and the course of the relationship between the victim and the victim advocate;
- (2) ~~exchanged or~~ disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act; **a support group in which a victim is or was a participant; or**
- (3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

- (1) advice;
- (2) notes;
- (3) reports;
- (4) statistical data;
- (5) memoranda;
- (6) working papers;
- (7) records; and
- (8) personally identifying information;

**produced in the course of advocating for a victim.**

SECTION 8. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) As used in this chapter, "confidential information" includes:

- (1) personally identifying information;
- (2) descriptions of physical appearance;
- (3) the case file; and
- (4) the case history;

**of a person who seeks, receives, or has received services from a victim advocate.**

(b) The term does not include:

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(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency;

against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

SECTION 9. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:

(1) name;

(2) mailing and physical address;

(3) electronic mail address;

(4) Internet protocol address;

(5) telephone numbers, including facsimile numbers;

(6) Social Security number;

(7) date of birth;

(8) racial or ethnic background; and

(9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

SECTION 10. IC 35-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "victim" means an individual:

(1) against whom ~~a covered act~~ **an act of domestic violence, dating violence, sexual assault, or stalking** is committed; or

(2) other than an individual who is accused of committing ~~a covered act~~, **an act of domestic violence, dating violence, sexual assault, or stalking** who is the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1); **a family member other than a family member who is accused of committing an act of domestic violence, dating violence, sexual assault, or stalking.**

SECTION 11. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed, appointed, or who volunteers for a victim services provider.**

**(b) The term does not include:**

- (1) a law enforcement officer;**
- (2) an employee or agent of a law enforcement officer;**
- (3) a prosecuting attorney; or**
- (4) an employee or agent of a prosecuting attorney's office.**

**(c) The term includes an employee, an appointee, or a volunteer of a:**

- (1) victim services provider;**
- (2) domestic violence program;**
- (3) sexual assault program;**
- (4) rape crisis center;**
- (5) battered women's shelter;**
- (6) transitional housing program for victims of domestic violence; or**
- (7) program that as one (1) of its primary purposes is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.**

**(d) The term may apply to an individual who does not maintain an office or does not meet with a victim in person.**

SECTION 12. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "~~victim counseling center~~" **service provider**" means:

- (1) a public agency;**
- (2) a unit of a public agency; or**
- (3) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;**

that is not affiliated with a law enforcement agency, and has, as one (1) of its primary purposes, ~~the treatment of~~ **to provide services to** victims for emotional and psychological conditions that occur as a result of ~~covered acts:~~ **domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), stalking (IC 35-45-10-5), human and sexual trafficking (IC 35-42-3.5), or a violent crime (as defined in IC 5-2-6.1-8).**

SECTION 13. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. This chapter does not relieve a victim ~~counselor~~ **advocate** of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

SECTION 14. IC 35-37-6-9 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following persons **or entities** may not be compelled to give testimony, ~~or~~ to produce records, **or to disclose any information** concerning confidential communications **and confidential information to anyone** or in any judicial, legislative, or administrative proceeding:

(1) A victim.

(2) A victim ~~counselor~~, **advocate or victim service provider** unless the victim **specifically** consents to the disclosure **in a written authorization that contains the date the consent expires.**

(3) ~~An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.~~

(b) A victim ~~counselor~~ **advocate, victim service provider**, or a victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) **A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.**

(d) **This section does not prohibit a victim from providing testimony concerning an offense.**

(e) **The consent to disclose information on behalf of:**

(1) **a child who is less than eighteen (18) years of age and is unemancipated; or**

(2) **an incapacitated victim;**

**may be made by a custodial parent, custodian, guardian, guardian ad litem in a written authorization that contains the date the consent expires.**

(f) **A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:**

(1) **committed; or**

(2) **is alleged to have committed;**

**an offense against the victim.**

SECTION 15. IC 35-37-6-11 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim ~~counselor~~; **advocate** or victim ~~counseling center service provider~~ in which the victim ~~counselor advocate~~ was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the ~~counseling~~ relationship; the victim ~~counselor advocate~~ may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

SECTION 16. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**

(1) a victim; or

(2) in the case of a deceased victim, the victim's personal representative;

may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

SECTION 17. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. A victim does not waive any privileges or confidentiality protections under this chapter if the victim:**

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

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1 SECTION 18. IC 35-37-6-15 IS ADDED TO THE INDIANA  
 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a**  
 4 **confidential communication under this chapter does not waive any**  
 5 **privilege concerning the remainder of the confidential**  
 6 **communication.**

7 SECTION 19. IC 35-37-6-16 IS ADDED TO THE INDIANA  
 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or**  
 10 **victim advocate refuses to testify or disclose information because**  
 11 **of a privilege under this chapter does not raise any negative**  
 12 **inferences or presumptions.**

13 SECTION 20. IC 35-37-6-17 IS ADDED TO THE INDIANA  
 14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may**  
 16 **disclose information in the aggregate that does not identify a victim**  
 17 **regarding services and demographic information to comply with**  
 18 **federal or state data collection requirements.**

19 SECTION 21. IC 35-38-1-30 IS ADDED TO THE INDIANA  
 20 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may**  
 22 **require that, as a condition of a person's executed sentence, the**  
 23 **person shall refrain from any direct or indirect contact with an**  
 24 **individual.**

25 SECTION 22. IC 35-46-1-15.1 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.1. A person who  
 27 knowingly or intentionally violates:

28 (1) a protective order to prevent domestic or family violence  
 29 issued under IC 34-26-5 (or, if the order involved a family or  
 30 household member, under IC 34-26-2 or IC 34-4-5.1-5 before  
 31 their repeal);

32 (2) an ex parte protective order issued under IC 34-26-5 (or, if the  
 33 order involved a family or household member, an emergency  
 34 order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

35 (3) a workplace violence restraining order issued under  
 36 IC 34-26-6;

37 (4) a no contact order in a dispositional decree issued under  
 38 IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4  
 39 or IC 31-6-4-15.9 before their repeal) or an order issued under  
 40 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the  
 41 person to refrain from direct or indirect contact with a child in  
 42 need of services or a delinquent child;

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(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); or

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

**(12) an order issued under IC 35-33-8-3.2; or**

**(13) an order issued under IC 35-38-1-30;**

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

SECTION 23. IC 4-23-25-11 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 24. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4; IC 35-37-6-6.

SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) All appropriations made to the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are transferred to the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.**

**(b) All balances in the sexual assault victims assistance account**

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1 established by IC 4-23-25-11(i), before its repeal by this act, are  
 2 transferred to the sexual assault victims assistance account  
 3 established by IC 5-2-6-23(h), as added by this act.

4 (c) Any obligations or encumbrances incurred by the sexual  
 5 assault victims assistance account established by IC 4-23-25-11(i),  
 6 before its repeal by this act, are obligations or encumbrances of the  
 7 sexual assault victims assistance account established by  
 8 IC 5-2-6-23(h), as added by this act.

9 (d) This SECTION expires July 1, 2009.

10 SECTION 26. [EFFECTIVE UPON PASSAGE] (a) Members  
 11 appointed to the sexual assault victims standards and certification  
 12 board under IC 4-23-25-11, before its repeal by this act, are  
 13 members of the sexual assault victim advocate standards and  
 14 certification board established by IC 5-2-6-23, as added by this act.

15 (b) Members appointed under subsection (a) shall serve for the  
 16 terms for which they were originally appointed.

17 (c) The members appointed to the sexual assault victim advocate  
 18 standards and certification board established by IC 5-2-6-23(c)(11)  
 19 and IC 5-2-6-23(c)(12), as added by this act, are initially appointed  
 20 for a term of four (4) years.

21 (d) This SECTION expires December 31, 2012.

22 SECTION 27. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 227 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 0.

## SENATE MOTION

Madam President: I move that Senators Wyss and Sipes be added as coauthors of Engrossed Senate Bill 227.

BECKER

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 227, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

- (1) Any information concerning a minor child of an applicant.
- (2) The Social Security number of an applicant or the spouse of an applicant.
- (3) The home telephone number of an applicant or the spouse of an applicant.
- (4) An applicant's birth certificate.
- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.

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(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

**(10) Any information concerning a victim of domestic violence or sexual assault."**

Page 6, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 5. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

- (A) execute a bail bond with sufficient solvent sureties;
- (B) deposit cash or securities in an amount equal to the bail;
- (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
- (D) post a real estate bond; or
- (E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

- (A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and
- (B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The

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clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual, **including if the defendant has not been released from lawful detention.**

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

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(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 6. IC 35-37-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** As used in this chapter, "confidential communication" means any information:

(1) exchanged between a victim and a victim ~~counselor~~ **advocate** in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and **the course of the relationship between the victim and the victim advocate;**

(2) **exchanged or** disclosed in ~~the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act;~~ **a support group in which a victim is or was a participant; or**

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(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

- (1) advice;
- (2) notes;
- (3) reports;
- (4) statistical data;
- (5) memoranda;
- (6) working papers;
- (7) records; and
- (8) personally identifying information;

produced in the course of advocating for a victim.

SECTION 7. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) As used in this chapter, "confidential information" includes:

- (1) personally identifying information;
- (2) descriptions of physical appearance;
- (3) the case file; and
- (4) the case history;

of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

- (1) information disclosed to a victim service provider or a victim advocate if the victim:
  - (A) files criminal charges;
  - (B) institutes a civil lawsuit; or
  - (C) reports allegations of criminal conduct to a law enforcement agency;
 against the victim service provider or victim advocate; and
- (2) alleged child abuse or neglect that is required to be reported under IC 31-33.

SECTION 8. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:

- (1) name;
- (2) mailing and physical address;

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- (3) electronic mail address;
- (4) Internet protocol address;
- (5) telephone numbers, including facsimile numbers;
- (6) Social Security number;
- (7) date of birth;
- (8) racial or ethnic background; and
- (9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

SECTION 9. IC 35-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "victim" means an individual:

- (1) against whom ~~a covered act~~ **an act of domestic violence, dating violence, sexual assault, or stalking** is committed; or
- (2) other than an individual who is accused of committing ~~a covered act~~, **an act of domestic violence, dating violence, sexual assault, or stalking** who is the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1): **a family member other than a family member who is accused of committing an act of domestic violence, dating violence, sexual assault, or stalking.**

SECTION 10. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed, appointed, or who volunteers for a victim services provider.

(b) The term does not include:

- (1) a law enforcement officer;
- (2) an employee or agent of a law enforcement officer;
- (3) a prosecuting attorney; or
- (4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:

- (1) victim services provider;
- (2) domestic violence program;
- (3) sexual assault program;
- (4) rape crisis center;
- (5) battered women's shelter;
- (6) transitional housing program for victims of domestic violence; or

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(7) program that as one (1) of its primary purposes is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.

(d) The term may apply to an individual who does not maintain an office or does not meet with a victim in person.

SECTION 11. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "victim ~~counseling center~~" **service provider** means:

- (1) a public agency;
- (2) a unit of a public agency; or
- (3) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

that is not affiliated with a law enforcement agency, and has, as one (1) of its primary purposes, ~~the treatment of~~ **to provide services to** victims for emotional and psychological conditions that occur as a result of ~~covered acts: domestic violence, dating violence, sexual assault, or stalking.~~

SECTION 12. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. This chapter does not relieve a victim ~~counselor~~ **advocate** of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

SECTION 13. IC 35-37-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following persons **or entities** may not be compelled to give testimony, ~~or~~ to produce records, **or to disclose any information** concerning confidential communications **and confidential information to anyone** ~~or~~ in any judicial, legislative, or administrative proceeding:

- (1) A victim.
- (2) A victim ~~counselor~~, **advocate or victim service provider** unless the victim **specifically** consents to the disclosure **in a written authorization that contains the date the consent expires.**
- (3) ~~An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.~~

(b) A victim ~~counselor advocate~~, **victim service provider**, or a victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction

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that is the subject of the proceeding unless the facility is a party to the proceeding.

**(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.**

**(d) This section does not prohibit a victim from providing testimony concerning an offense.**

**(e) The consent to disclose information on behalf of:**

**(1) a child who is less than eighteen (18) years of age and is unemancipated; or**

**(2) an incapacitated victim;**

**may be made by a custodial parent, custodian, guardian, guardian ad litem in a written authorization that contains the date the consent expires.**

**(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:**

**(1) committed; or**

**(2) is alleged to have committed;**

**an offense against the victim.**

SECTION 14. IC 35-37-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

**(1) a victim brings suit against a victim ~~counselor~~, **advocate** or victim ~~counseling center service provider~~ in which the victim ~~counselor~~ **advocate** was employed or served as a volunteer at the time of the counseling relationship; and**

**(2) the suit alleges malpractice during the ~~counseling~~ relationship; the victim ~~counselor~~ **advocate** may testify or produce records regarding confidential communications with the victim and is not liable for doing so.**

SECTION 15. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**

**(1) a victim; or**

**(2) in the case of a deceased victim, the victim's personal representative;**

**may authorize a victim advocate or victim service provider to**

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release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

- (1) abused or killed the victim;
- (2) is alleged to have abused or killed the victim; or
- (3) assisted another person in abusing or killing the victim.

SECTION 16. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. A victim does not waive any privileges or confidentiality protections under this chapter if the victim:**

- (1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or
- (2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

SECTION 17. IC 35-37-6-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.**

SECTION 18. IC 35-37-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.**

SECTION 19. IC 35-37-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.**

SECTION 20. IC 35-38-1-30 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may require that, as a condition of a person's executed sentence, the person shall refrain from any direct or indirect contact with an individual.**

SECTION 21. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.1. A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- (3) a workplace violence restraining order issued under IC 34-26-6;
- (4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
- (8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
- (9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
- (10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); ~~or~~
- (11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:
  - (A) tribe;
  - (B) band;
  - (C) pueblo;

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(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

**(12) an order issued under IC 35-33-8-3.2; or**

**(13) an order issued under IC 35-38-1-30;**

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section."

Page 6, between lines 27 and 28, begin a new paragraph and insert: "SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4; IC 35-37-6-6."

Page 7, line 6, delete "(a)," and insert "(a)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 227 as printed January 18, 2008.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 227 be amended to read as follows:

Page 1, line 10, after "1.5." insert "(a)".

Page 2, between lines 9 and 10, begin a new paragraph and insert:

**"(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:**

**(1) is confidential for purposes of IC 5-14-3; and**

**(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.**

**(c) The following information concerning an individual who**

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holds, held, or has applied for an occupational license under this article is not confidential:

- (1) The individual's name.
- (2) The individual's place of employment.
- (3) The individual's job title.
- (4) The individual's gaming experience.
- (5) The reason for denial or revocation of a license or for disciplinary action against the individual.
- (6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 3. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

- (1) Any information concerning a minor child of an applicant.
- (2) The Social Security number of an applicant or the spouse of an applicant.
- (3) The home telephone number of an applicant or the spouse of an applicant.
- (4) An applicant's birth certificate.
- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.
- (8) The place of birth of the spouse of an applicant.
- (9) The personal financial records of an applicant or the spouse or minor child of an applicant.
- (10) Any information concerning a victim of domestic violence or sexual assault.

(b) Except as provided subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

- (1) is confidential for purposes of IC 5-14-3; and
- (2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this

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article is not confidential:

- (1) The individual's name.
- (2) The individual's place of employment.
- (3) The individual's job title.
- (4) The individual's gaming experience.
- (5) The reason for denial or revocation of a license or for disciplinary action against the individual.
- (6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b)."

Page 12, line 12, after "domestic" insert "or family".

Page 12, line 12, delete "assault, or" and insert "assault (as defined in IC 5-26.5-1-8), stalking (IC 35-45-10-5), human and sexual trafficking (IC 35-42-3.5), or a violent crime (as defined in IC 5-2-6.1-8).".

Page 12, delete line 13.

Renumber all SECTIONS consecutively.

(Reference is to ESB 227 as printed February 22, 2008.)

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